

JS 44 - No. CALIF. (Rev. 4/87)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO)

I.(a) PLAINTIFFS

ANTHONY AQUILA

DEFENDANTS

UNITED STATES OF AMERICA

**(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)**

SONOMA

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT**(IN U.S. PLAINTIFF CASES ONLY)**

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. N/A

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

JEFFREY A. TITUS (707) 544 8107
445 ORCHARD STREET, #203
SANTA ROSA, CA 95404

ATTORNEYS (IF KNOWN)**II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)**

- ☐ 1 U.S. Government Plaintiff
☒ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)**(For diversity cases only)**

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN**(PLACE AN "X" IN ONE BOX ONLY)**

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 160 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury Med Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth In Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motion to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 750 Other Labor Litigation <input type="checkbox"/> 791 Empl Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input checked="" type="checkbox"/> 870 Taxes (US Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	

VI. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY) ABATEMENT OF TRUST FUND RECOVERY PENALTY AND ACTION FOR REFUND OF TAXES 26 U.S.C. SECTIONS 6672

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION

DEMAND \$ 100,000

☐ CHECK YES only if demanded in complaint:

UNDER F.R.C.P. 23

JURY DEMAND: ☒ YES ☐ NO

VIII. RELATED CASE(S) IF ANY PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE A "X" IN ONE BOX ONLY) ☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE

DATE 1/28/04 SIGNATURE OF ATTORNEY OF RECORD

Jeffrey A. Titus

Jeffrey A. Titus (California State Bar #114148)
445 Orchard Street, Suite 203
Santa Rosa, CA 95404
(707) 544-8107
(707) 544-2465

Attorney for PLAINTIFF

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Anthony Aquila ,)	
)	Civil Action
Plaintiff,)	
)	
v.)	COMPLAINT FOR REFUND OF TAXES
)	
United States of America,)	JURY TRIAL DEMANDED
)	
Defendant.)	

COMPLAINT

COMES NOW the Plaintiff, Anthony Aquila, and as a basis for his Complaint alleges as follows:

I. PARTIES

1. The Plaintiff, Anthony Aquila (hereinafter "Aquila"), is a citizen of the United States and a resident of the State of California, with his principal residence at 5575 Monte Verde Drive, Santa Rosa, California.

2. The Defendant is the United States of America.

II. JURISDICTION AND VENUE

3. This is a suit arising under the laws of the Internal Revenue Code for the refund of taxes (assessable penalties) erroneously and illegally assessed against and collected from the Plaintiff.

4. Jurisdiction is conferred upon this Court by virtue of 28 U.S.C. Section 1346(a)(1)

5. Venue in this District is proper under 28 U.S.C. Section 1402(a).

STATEMENT OF CLAIM

Count One – Aquila v. United States

6. Plaintiff incorporates by reference the averments of paragraphs 1 through 5 of this Complaint as though the same were set forth fully herein.

7. On June 24, 2002, the Internal Revenue Service (“IRS”), assessed against the Plaintiff assessable penalties pursuant to Internal Revenue Code (“Code”) Section 6672 as follows:

<u>Tax Period</u>	<u>Penalty</u>
Ended December 31, 1996	\$17,012.05
Ended March 31, 1997	\$25,837.09
Ended June 30, 1997	\$21,981.42

8. On July 29, 2002, Plaintiff paid \$100.00 (estimated to be the withholding taxes due for one employee for one quarter) of the assessment made against him.

9. On August 22, 2002, Plaintiff filed a Claim for Refund on Form 843 for his \$100.00 payment made with respect to 1996 by mailing said Claim to the Internal Revenue Service Center, 1301 Clay St., Suite 1400-S, Oakland, CA 94612, Attention: Special Procedures. A true copy of the Claim for Refund (with attachments) is made hereto as Exhibit “A”.

10. Six months have passed since the claim for refund was filed. The IRS acknowledged the claim; however, no action has been taken on the matter.

11. As grounds for recovery, Plaintiff makes the following averments:

a. The statute of limitations expired on the assessment of the penalties prior to their assessment.

b. Aquila was not a person responsible for collecting and paying withholding taxes.

12. As further grounds for his recovery, Plaintiff incorporates by reference the averments contained in his Claim for Refund and attachments thereto, Exhibit “A”.

13. The assessment and collection of the penalties were arbitrary, discriminatory, erroneous and illegal.

1 14. Plaintiff is the sole owner of his claim against the Defendant and has made no assignment of
2 said claim.

3 WHEREFORE, Plaintiff prays for judgment against the Defendant in the total amount of \$100.00
4 together with interest, costs, and attorneys fees and for abatement of the remainder of the penalty assessed
5 against him and for such further relief as the Court deems just and equitable.

6 JURY DEMAND

7 Plaintiff demands a Trial by Jury on all issues.

8
9 Dated: February 18, 2004

10 /S/

11 Jeffrey A. Titus
12 Attorney for Plaintiff
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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Date: 11-8-2002

Anthony Aquila
5575 Monte Verde Drive
Santa Rosa, CA 95409

Advisor: John Gonzalez # 94-06876

Phone: 510-637-3145

Dear Mr. Aquila:

We are in receipt of your 843-claim forms, dated 08-20-02, which we are treating as a Claim for Abatement of the Trust Fund Recovery Penalty assessed against you.

Your claim has been assigned to Technical Support Advisory Group 1 in Oakland for review. If a name appears above, it means that your claim has already been assigned to a particular Advisor. Should you have a question regarding the status of your claim, you may contact the Advisor at the number listed above.

If no name appears above, it means your claim has not yet been assigned. In that event, you may contact Group Manager Bob Williams at (510) 637-4649 regarding the status of your claim.

Your claim will be worked in the order in which it is received. When our review has been completed, we will contact you in writing regarding our decision.

Should you wish to supply additional documentation to support the issues you have raised in your claim, or if you want to reach the advisor by mail, please address your correspondence to:

IRS Technical Support
1301 Clay Street, Suite 1400 South
Oakland, CA 94612
Attn: Advisory Group 1

Sincerely,

A handwritten signature in black ink, appearing to read "John Gonzalez".

John Gonzalez # 94-06876
Advisor, Technical Support
Group 1, Area 13

cc: Jeffrey Titus



Claim for Refund and Request for Abatement

OMB No. 1545-0024

▶ See separate instructions.

Use Form 843 only if your claim involves (a) one of the taxes shown on line 3a or (b) a refund or abatement of interest, penalties, or additions to tax on line 4a.

Do **not** use Form 843 if your claim is for —

- * An overpayment of income taxes;
- A refund of fuel taxes;
- An overpayment of excise taxes reported on Form 720, 730, or 2290 (see **General Instructions**).

Please type or print	Name of claimant ANTHONY AQUILA	Your social security number 530-58-9497
	Address (number, street, and room or suite no.) 5575 MONTE VERDE DRIVE	Spouse's social security number N/A
	City or town, state, and ZIP code SANTA ROSA CA 95409	Employer identification number N/A
	Name and address shown on return if different from above	Daytime telephone number 707 544 8107
	1 Period — prepare a separate Form 843 for each tax period From April 1 , 19 97 , to June 30 , 19 97	2 Amount to be refunded or abated \$ 100

3a Type of tax, penalty, or addition to tax:

- ☐ Employment ☐ Estate ☐ Gift ☐ Excise (unless reported on Form 720, 730, or 2290 — see instructions.)
☒ Penalty — IRC section ▶ **6672**

b Type of return filed (see instructions):

- ☐ 706 ☐ 709 ☐ 940 ☐ 941 ☐ 943 ☐ 945 ☐ 990-PF ☐ 4720 ☐ Other (specify)

4a Request for abatement or refund of:

- ☐ Interest caused by IRS errors or delays (if applicable — see instructions).
☐ A penalty or addition to tax as a result of erroneous advice from the IRS.

b Dates of payment ▶ **N/A****5 Explanation and additional claims.** Explain why you believe this claim should be allowed, and show computation of tax refund or abatement of interest, penalty, or addition to tax.

Mr. Aquila was assessed the trust fund penalty for a corporation, Gruppo D'Aquila Inc. While Mr. Aquila was a founder of the corporation, he was an officer in name only. During 1997, the day-to-day decisions of the corporation were being made by the CFO Carlos Figliolini. During 1996, the day-to-day decisions were made by the manager of the business, Doug Brians, and the bookkeeper, Rose Perria, was writing and signing many of the checks including payroll. Mr. Aquila was working fulltime for another company (MaxMeyer America, Inc.) during the periods in question. His other job required him to travel extensively throughout Europe and the United States on business. The declaration of Francis J. Dunne is attached which supports Mr. Aquila's contention that he was working for MaxMeyer America during the 1996 period and he was traveling extensively. Also attached is a record of travel provided by United Airlines which further supports Mr. Aquila's position that he was not present at Gruppo D'Aquila, Inc. during the periods. During the life of Gruppo D'Aquila, Inc. Mr. Aquila signed 5 checks out of the hundreds of checks written and signed by Rose Perria or Carlos Figliolini. One check was simply a transfer between corporate accounts. The other four checks were for a total of \$2,879.

Signature. If you are filing Form 843 to request a refund or abatement relating to a joint return, both you and your spouse must sign the claim. Claims filed by corporations must be signed by a corporate officer authorized to sign, and the signature must be accompanied by the officer's title.

Under penalties of perjury, I declare that I have examined this claim, including accompanying schedules and statements, and, to the best of my knowledge and belief, it is true, correct, and complete.

Signature (Title, if applicable. Claims by corporations must be signed by an officer.)

Date

Signature

Date

For Paperwork Reduction Act Notice, see separate instructions.

Form **843**
(Rev. January 1997)
Department of the Treasury
Internal Revenue Service

Claim for Refund and Request for Abatement

OMB No. 1545-0024

▶ See separate instructions.

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Please type or print	Name of claimant ANTHONY AQUILA	Your social security number 530-58-9497
	Address (number, street, and room or suite no.) 5575 MONTE VERDE DRIVE	Spouse's social security number N/A
	City or town, state, and ZIP code SANTA ROSA CA 95409	Employer identification number N/A
	Name and address shown on return if different from above	Daytime telephone number 707 544 8107
	1 Period — prepare a separate Form 843 for each tax period From January 1 , 19 97 , to March 31 , 19 97	2 Amount to be refunded or abated \$ 100

3a Type of tax, penalty, or addition to tax:
☐ Employment ☐ Estate ☐ Gift ☐ Excise (unless reported on Form 720, 730, or 2290 — see instructions.)
☒ Penalty — IRC section ▶ **6672**

b Type of return filed (see instructions):
☐ 706 ☐ 709 ☐ 940 ☐ 941 ☐ 943 ☐ 945 ☐ 990-PF ☐ 4720 ☐ Other (specify)

4a Request for abatement or refund of:
☐ Interest caused by IRS errors or delays (if applicable — see instructions).
☐ A penalty or addition to tax as a result of erroneous advice from the IRS.

b Dates of payment ▶ **N/A**

5 Explanation and additional claims. Explain why you believe this claim should be allowed, and show computation of tax refund or abatement of interest, penalty, or addition to tax.

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Under penalties of perjury, I declare that I have examined this claim, including accompanying schedules and statements, and, to the best of my knowledge and belief, it is true, correct, and complete.

Signature (Title, if applicable. Claims by corporations must be signed by an officer.)

Date

Signature

Date

For Paperwork Reduction Act Notice, see separate instructions.

Form **843** (Rev. 1-97)

Form **843**

(Rev. January 1997)

Department of the Treasury
Internal Revenue Service**Claim for Refund and Request for Abatement**

OMB No. 1545-0024

▶ See separate instructions.

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Please type or print	Name of claimant ANTHONY AQUILA	Your social security number 530-58-9497
	Address (number, street, and room or suite no.) 5575 MONTE VERDE DRIVE	Spouse's social security number N/A
	City or town, state, and ZIP code SANTA ROSA CA 95409	Employer identification number N/A
	Name and address shown on return if different from above	Daytime telephone number 707 544 8107

1 Period — prepare a separate Form 843 for each tax period From October 1 , 19 96 , to December 31 , 19 97	2 Amount to be refunded or abated \$ 100
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3a Type of tax, penalty, or addition to tax:

- ☐ Employment ☐ Estate ☐ Gift ☐ Excise (unless reported on Form 720, 730, or 2290 — see instructions.)
☒ Penalty — IRC section ▶ **6672**

b Type of return filed (see instructions):

- ☐ 706 ☐ 709 ☐ 940 ☐ 941 ☐ 943 ☐ 945 ☐ 990-PF ☐ 4720 ☐ Other (specify)

4a Request for abatement or refund of:

- ☐ Interest caused by IRS errors or delays (if applicable — see instructions).
☐ A penalty or addition to tax as a result of erroneous advice from the IRS.

b Dates of payment ▶ **N/A**

5 Explanation and additional claims. Explain why you believe this claim should be allowed, and show computation of tax refund or abatement of interest, penalty, or addition to tax.

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Under penalties of perjury, I declare that I have examined this claim, including accompanying schedules and statements, and, to the best of my knowledge and belief, it is true, correct, and complete.

Signature (Title, if applicable. Claims by corporations must be signed by an officer.)

Date

Signature

Date

For Paperwork Reduction Act Notice, see separate instructions.

Form **843** (Rev. 1-97)



January 28, 2002

Tony Aquila
9889 Willow Creek Road
San Diego, CA 92131

RE: Mileage Plus Account 00308939235

Dear Mr. Aquila,

This is in response to your request for travel information on your Mileage Plus account from June 1996 through June 1997. Flight data for that time period is listed on the following page. Please let me know if you need additional information.

Sincerely,

A handwritten signature in cursive script that reads "Kathy Shrode".

Kathy Shrode
Mileage Plus
847-700-1205

DATE	FLIGHT	FROM	TO	TOTAL MILES
6/4/96	298	SFO - San Francisco	PHX - Phoenix	814
6/18/96	2204	PHX - Phoenix	SFO - San Francisco	814
6/22/96	964	IAD - Washington DC	ZRH - Zurich	6238
6/22/96	964	SFO - San Francisco	IAD - Washington DC	3024
7/1/96	6501	IAD - Washington DC	JFK - New York City	625
7/1/96	965	ZRH - Zurich	IAD - Washington DC	5198
7/30/96	1440	SFO - San Francisco	DEN - Denver	1195
8/1/96	1137	DEN - Denver	SFO - San Francisco	1195
8/11/96	2088	LAX - Los Angeles	OAK - Oakland	422
8/11/96	2151	OAK - Oakland	LAX - Los Angeles	422
10/28/96	1154	DEN - Denver	MSP - Minneapolis	867
10/28/96	226	SFO - San Francisco	DEN - Denver	1195
10/29/96	509	DEN - Denver	SFO - San Francisco	1195
10/29/96	1663	MSP - Minneapolis	DEN - Denver	867
11/18/96	228	SFO - San Francisco	DEN - Denver	1195
11/18/96	740	DEN - Denver	MSP - Minneapolis	867
11/21/96	145	ORD - Chicago	SFO - San Francisco	3692
11/21/96	625	YYZ - Toronto	ORD - Chicago	625
11/21/96	402	MSP - Minneapolis	ORD - Chicago	625
11/21/96	416	ORD - Chicago	YYZ - Toronto	625
11/25/96	588	SFO - San Francisco	DEN - Denver	1912
11/25/96	1258	DEN - Denver	IND - Indianapolis	1978
11/26/96	145	ORD - Chicago	SFO - San Francisco	3692
11/26/96	1507	IND - Indianapolis	ORD - Chicago	1000
12/16/96	1180	SFO - San Francisco	DEN - Denver	1912
12/16/96	740	DEN - Denver	MSP - Minneapolis	1386
12/19/96	1401	DEN - Denver	OAK - Oakland	1892
12/19/96	1031	MSP - Minneapolis	DEN - Denver	1386
1/13/97	250	SFO - San Francisco	DEN - Denver	1912
1/13/97	5805	DEN - Denver	FSD - Sioux Falls	1160
1/14/97	5803	FSD - Sioux Falls	MSP - Minneapolis	1000
1/18/97	1187	MSP - Minneapolis	DEN - Denver	1386
1/18/97	1521	DEN - Denver	SFO - San Francisco	1912
2/26/97	1580	SFO - San Francisco	DEN - Denver	2868
2/27/97	835	DEN - Denver	SFO - San Francisco	2868
3/4/97	590	ORD - Chicago	SDF - Louisville, KY	1500
3/4/97	808	SFO - San Francisco	ORD - Chicago	5538
3/6/97	1173	DEN - Denver	SFO - San Francisco	7868
3/6/97	439	IND - Indianapolis	DEN - Denver	2967
3/18/97	427	ORD - Chicago	OMA - Omaha	1000
3/18/97	148	SFO - San Francisco	ORD - Chicago	3692
3/20/97	435	DEN - Denver	BOI - Boise	1284
3/20/97	1197	OMA - Omaha	DEN - Denver	1000
3/21/97	2077	BOI - Boise	SFO - San Francisco	1044
3/30/97	955	SFO - San Francisco	PHX - Phoenix	1302
4/1/97	2436	PHX - Phoenix	SFO - San Francisco	1302
4/4/97	806	SFO - San Francisco	ORD - Chicago	3692
4/4/97	5561	ORD - Chicago	MSN - Madison, WI	1000
4/11/97	495	MSP - Minneapolis	ORD - Chicago	1000
4/11/97	155	ORD - Chicago	SFO - San Francisco	3692
4/12/97	2187	LAS - Las Vegas	SFO - San Francisco	1035
5/1/97	2584	SFO - San Francisco	BOI - Boise	1044
5/2/97	2077	BOI - Boise	SFO - San Francisco	1044
5/12/97	0742	BOI - Boise	DEN - Denver	1284
5/12/97	2584	SFO - San Francisco	BOI - Boise	1044
5/13/97	1500	DEN - Denver	AUS - Austin	1538
6/5/97	2323	SFO - San Francisco	ONT - Ontario, CA	726
6/7/97	2143	ONT - Ontario, CA	SFO - San Francisco	908
6/10/97	572	SFO - San Francisco	MSP - Minneapolis	3178
6/12/97	703	MSP - Minneapolis	ORD - Chicago	1000
6/12/97	292	ORD - Chicago	IND - Indianapolis	1000
6/14/97	805	ORD - Chicago	SFO - San Francisco	3692
6/14/97	5601	LEX - Lexington KY	ORD - Chicago	1000

JEFFREY A. TITUS (SBN 114148)
Attorney at Law
350 E Street, Suite 220
Santa Rosa, CA 95404
(707) 544-8107

Attorney for Anthony Aquila

STATE OF CALIFORNIA
EMPLOYMENT DEVELOPMENT DEPARTMENT

In the Matter of:

Tax Case No. C-T-05173

Anthony Aquila,

DECLARATION OF FRANCES J. DUNNE

Petitioner


Jude: S. Claymore
Date: November 19, 1998
Time: 1:30 p.m.
Place: 50 D Street, Ste 340
Santa Rosa, CA

- _____ /
1. I, FRANCES J. DUNNE, declare as follows:
 2. I am a former employee of MaxMeyer America, Inc. If called as a witness, I am competent to testify to the facts contained herein from my own knowledge.
 3. During the years of 1995-1996 I worked at MaxMeyer America, Inc. as a National Coordinator for R&D and Systems Integration. During those years Anthony Aquila held the position of President & CEO of MaxMeyer America, Inc. When Mr. Aquila was not traveling out of town for MaxMeyer business, he worked on a full daily basis in the MaxMeyer offices. As this was a new growing business, the time Anthony Aquila normally spend directly on MaxMeyer business was far in excess of 40 hours per week.

4. Mr. Aquila was not involved with running the day-to-day operations of Autocraft Emporium Inc.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Dated: 9/24/98



Frances J. Dunne